

**THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF NAPA**

**Superior Court of California
County of Napa**



Local Rules

Effective 7/1/2002

**THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
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RULE 1: SCOPE OF RULES FOR THE SUPERIOR COURT

These rules are intended to supplement the California Codes and Rules of Court. All lawyers and self-represented parties appearing before the Napa Superior Court must know and abide by these rules, as well as all applicable California Codes and Rules. Further, these rules are cumulative and are to be read as a whole. Thus, every rule applies to every case and every party or attorney appearing before the Napa Superior Court unless common sense or another provision of these rules exempts or supercedes it. These rules, the annual judicial assignments, and the court's schedules and calendar are available on the court's website at <http://www.napa.courts.ca.gov>. (Effective 7/1/02)

1.1 Effective Date of Rules

These rules shall take effect on July 1, 2002 (Effective July 1, 2002)

1.2 Citation of Rules

These rules shall be known and cited as "Local Rules for the Superior Court of the State of California, County of Napa". (Effective 1/1/99)

1.3 Construction and Application of Rules

These rules shall be liberally construed to serve the proper and efficient administration of the business and affairs of this court and to promote and facilitate the administration of justice by the Superior Court of Napa County.

These Rules may be amended or repealed and new rules may be added, by majority vote of the judges. Rule and subdivision headings do not in any manner affect the scope, meaning or intent of any of the provisions of these rules.

These rules are adopted pursuant to Code of Civil Procedure section 575.1. Any party or counsel for a party failing to abide by these rules may be sanctioned upon motion of any party or counsel for a party or on the court's own motion as set forth in the Code of Civil Procedure section 575.2. (Effective 7/1/02)

RULE 2: COURT ORGANIZATION

The judiciary and the court's management team establish the court's administrative policy. All judges participate in court policy-making. The daily administration of the court is conducted by the duly elected presiding judge and assistant presiding judge, and the appointed court executive officer. This administrative team is known as the Executive Committee of the Superior Court of Napa County. This Executive Committee has the authority to formulate and propose rules of procedure and court policies with the

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opportunity for the public and the bar to participate. The superior court system has the following characteristics:

- A. The judiciary consisting of judges elected to or appointed to the Superior Court of the County of Napa.
- B. An Executive Committee consisting of the duly elected presiding and assistant presiding judges of the superior court, and the appointed executive officer of the superior court.
- C. A policy making body consisting of all members of the judiciary of the Superior Court, county of Napa. (Effective 7/1/02)

2.1 Policy Making Authority

Responsibility for formulating policy, including regulations concerning court administration, is vested in the Executive Committee of the court system with advice from the entire membership of the judiciary and the consent of a simple majority of the judiciary. (Effective 1/1/99)

2.2 Administrative Authority

Administrative supervision of the court system as a whole is exercised by an Executive Officer of the Superior Court of Napa County who serves at the pleasure of the court and is appointed by the elected or appointed judges of the superior court by a simple majority. (Effective 7/1/02)

2.3 Administrative Responsibility

While each judge retains exclusive judicial discretion over the substantive processing of cases in his or her respective court of original jurisdiction, the administrative processing of cases is subject to the supervisory authority of the court system's Executive Committee. (Effective 7/1/93)

2.4 Presiding Judge and Assistant Presiding Judge

The business of the Superior Court shall be supervised by a Presiding Judge or Assistant Presiding Judge selected by a majority of the judges of the court during August of each year to serve for a one-year term, commencing January 1st. If at any time the Presiding Judge is absent, ill or otherwise unable to perform these duties, the Assistant Presiding Judge shall perform all duties of the Presiding Judge. If at any time during the term of office both the Presiding Judge and Assistant Presiding Judge are unavailable, the senior judge or another judge designated by the Presiding Judge shall serve as acting Presiding Judge during the period of unavailability.

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The Presiding Judge shall be chosen by a majority vote of the judges and shall hold the office at their pleasure. He or she shall perform the duties prescribed by state law and by these Rules. The Presiding Judge shall, when necessary, designate an acting Presiding Judge. (Effective 7/1/02)

2.5 Location and Schedule of Court Sessions

Sessions of the Court shall be held in the courtrooms provided at the Napa County Courthouse, 825 Brown Street; the Criminal Courts Building, 1111 Third Street; and the Juvenile Court, 2350 Old Sonoma Road. In addition, the Court may conduct sessions at any appropriate location within the County of Napa at the direction of the judicial officer presiding at such hearing. The courtrooms are at the following locations:

Civil Courthouse, 825 Brown Street:

Courtroom A	2nd Floor
Courtroom B	2nd Floor
Courtroom C	2nd Floor
Courtroom J	1st Floor
Courtroom N	1st Floor

Criminal Courthouse, 1111 Third Street

Courtroom D	2nd Floor
Courtroom E	2nd Floor
Courtroom F	3rd Floor
Courtroom G	3rd Floor
Courtroom H	3rd Floor

Juvenile Court, 2350 Old Sonoma Road (Effective 7/1/02)

2.6 Applications for Ex Parte Orders

Except as otherwise specifically provided by these rules, applications for ex parte orders shall conform to California Rule of Court 379 and be presented as follows:

- A. **Civil.** Civil applications shall be presented to the master calendar judge of the civil division at 11:45 or 3:00 p.m. by appointment only made by calling the clerk of the court with notice to opposing party or counsel no later than 10:00 a.m. the preceding day, unless the nature of the application precludes such notice. The court may waive notice for good cause.
- B. **Criminal.** Applications involving criminal matters shall be presented to the master calendar judge of the criminal division at 11:45 a.m. or 3:00 p.m. with notice to opposing party or counsel no later than 10:00 a.m. the preceding day, and by appointment made by calling the clerk of the court unless the nature of the application precludes such notice, and the court for good cause may waive notice.

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New matters not involving any pending case shall be presented to the supervising judge of the criminal division.

- C. **Family Law/Juvenile.** Applications shall be presented to the judicial officer of the family law/juvenile division at 11:00 a.m. with notice to all parties or counsel and the Probation Department in Welfare and Institution Code section 300 and 602 matters no later than 10:00 a.m. the preceding day, and by appointment made by calling the clerk of the court unless the nature of the motion precludes such notice. The court for good cause may waive notice.
- D. **Probate.** Applications shall be presented to the supervising judge of the civil division. All applications shall be made at 11:45 a.m. or 3:00 p.m. by appointment only made by calling the clerk of the court with notice to opposing party or counsel no later than 10:00 a.m. the preceding day, unless the nature of the application precludes such notice, and for good cause the court may waive notice.
- E. **Unavailability or Disqualification.** If the judge to whom an application should be presented under this rule is unavailable (i.e., not physically present) or is disqualified, or in cases of emergency, the application may be presented to any available judge of the court. (Effective 7/1/02)

2.7 "Duty" Judge

One judge shall be the duty judge each month. The duty judge shall be responsible for the handling of emergency protective orders, off-hours search warrants, off-hours writs and other matters requiring judicial attention off hours.

The judges shall annually designate which month each will serve and will notify Napa County Dispatch of these designations. A duty judge unable to act will arrange for a substitute and will notify dispatch accordingly.

In the event the duty judge cannot be reached any judge may be contacted for off hours judicial business. Judges can be reached through Napa County Central Dispatch at 707 253-4451 during non-court hours. (Effective 7/1/02)

2.8 Compensation of Court-Appointed Counsel

Compensation of appointed counsel will be at the rate of \$65.00 per hour or up to \$85.00 per hour if justified by the complex nature of the case and approved in advance by the judge in whose department the case is pending. In appropriate cases, extraordinary fees, costs and expenses will be allowed provided that prior approval is obtained. Ex parte petitions for fees may be made in camera if authorized by law. The court may award reasonable fees pursuant to Family Code section 3153. (Effective 1/1/99)

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2.9 Telephonic Appearances

The court has contracted with CourtCall LLC, a private telephonic appearance provider. The telephone number for CourtCall LLC is 1(888)-88-Court [1-(888) 882-6878] It is the attorney's responsibility to arrange the appearance with CourtCall and the court will not enter it as a CourtCall appearance until it receives confirmation from CourtCall.

A. Program Overview

The Napa Superior Court permits telephonic appearances for non-evidentiary law and motion matters, including trial-setting conferences. Use of CourtCall is voluntary.

1. CourtCall is available at a fixed fee to use when circumstances are appropriate.
2. Preference may be given to cases with CourtCall Appearances.
3. Hearings are conducted in open court or in private as the court may designate. All attorneys making CourtCall Appearances call a designated toll free teleconference number a few minutes before the calendar is scheduled, to check in with the clerk. Attorneys remain on the court's speakerphone-telephone line and hear the same business that those present in the court may be hearing. Attorneys not participating telephonically appear in person. The court calls cases for hearing. All attorneys on a case participate in the hearing. All present in the courtroom hear the discourse of those making CourtCall Appearances, unless the case is heard in private.
4. CourtCall Appearances are scheduled, in writing in advance, by counsel serving notice on all other counsel and self-represented parties, at least 5 days in advance and by paying a fee for each CourtCall Appearance.

B. Participation in CourtCall Appearances

1. Courts

- a. Each participating court may give calendar hearing order preference to cases that include attorneys making CourtCall Appearances.
- b. The following matters are currently deemed unsuitable for CourtCall Appearances.
 1. Any hearing at which witnesses are called to testify;
 2. Settlement conferences and final status conferences, unless the court orders otherwise;
 3. Any hearing or conference for which the court determines that a personal appearance would materially assist in a determination of the proceeding or in resolution of the case.

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c. The court reserves the right, at any time, to reject any Request for CourtCall Appearance. When the court rejects a request, it shall order a refund of deposited telephonic appearances fees and notify CourtCall, LLC.

d. The court shall also reserve the right to halt the telephonic hearing on any matter and order the attorneys to personally appear at a later date and time, in which case no refund is permitted.

e. If a matter is continued prior to the actual hearing date, the prior Request for CourtCall Appearance shall remain valid for the continued date of the hearing provided the attorney notifies CourtCall, in writing, of the continuance. There are no refunds for matters that go “off calendar”.

f. Existing rules and procedures regarding the making of the record by a court reporter or electronic device or obtaining a transcript after the hearing shall apply to hearings at which CourtCall Appearances are made.

2. Attorneys

a. Attorneys electing to make a CourtCall Appearance must arrange the appearance with CourtCall. The court will not enter it as a CourtCall Appearance until it receives confirmation from CourtCall..

b. The words “CourtCall Appearance Requested” must be printed below the department, date, and time of the hearing on the first page of the papers filed with the court.

C. Appearance Procedure

1. An attorney making a CourtCall Appearance shall:

a. Eliminate to the greatest extent possible all ambient noise from the attorney’s location;

b. Speak directly into a telephone handset;

c. Not call in via a payphone, cellular or cordless telephone device, or a personal computer.

2. An attorney making a CourtCall appearance must call the court’s designated toll free teleconference line approximately 5 minutes prior to the scheduled hearing time and check-in with the clerk. An attorney calling after the check-in period shall be considered late for the hearing and shall be treated by the court in the same manner as if the attorney had personally appeared late for the hearing.

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3. An attorney appearing telephonically must state his or her name for the record each time the attorney speaks, and shall participate in the appearance with the same degree of courtesy and courtroom etiquette as is required for a personal appearance. An attorney must not use the “hold” button, as it is not within the policy of the court to wait for an attorney to rejoin the line. (Effective 17/1/02)

2.10 Tentative Ruling System

The court has adopted a tentative ruling system in Civil Law and Motion and Probate matters. On the afternoon of the court day before the scheduled hearing, the Civil Law and Motion Judge and the Probate Judge will post tentative rulings on each matter to be heard the next court day in their respective departments on the court’s website, www.napa.courts.ca.gov, and on the court’s telephone system, (707) 299-1270. The tentative rulings will be available after 3:00 p.m. The tentative ruling shall be the ruling of the court unless the court indicates otherwise. The Law and Motion Judge may indicate that further argument or briefing is invited or a party or counsel for a party may request oral argument by calling all opposing parties or counsel by 4:00 p.m. on the day before the scheduled hearing day. The Probate Judge may approve or deny petitions or other documents or may indicate that counsel and/or parties must appear in court at the scheduled time. As in Law and Motion, a party or counsel for a party may request a hearing on the matter by calling all other noticed persons or counsel by 4:00 p.m. on the day before the scheduled hearing day. See California Rules of Court Rule 324.

Counsel or parties must include in each noticed motion the following information:

“The Napa Court uses a Tentative Ruling System. To receive the tentative ruling, telephone the court at (707) 299-1270 or visit the court’s website at www.napa.courts.ca.gov after 3:00 p.m. the court day before the scheduled hearing date. Unless the court directs otherwise, no hearing will be held unless a party or counsel for a party requests a hearing by calling all other parties or counsel no later than 4:00 p.m. the court day before the hearing.” (Effective 7/1/02)

2.11 Facsimile Filing

The Napa Superior Court will accept agency fax filing of all documents except those specified in California Rule of Court 2002.

Direct filing of documents by fax to the Napa Superior Court is allowed on a case-by-case basis if deemed necessary and appropriate to expedite a matter and then only upon prior approval or by direction of a judicial officer. The telephone number for fax filings is (707) 253-4229 for civil filings and (707) 253-4673 for criminal filings. The court does not allow direct fax filings of documents that require a fee, a signature of a judge, documents with multiple exhibits, or any document not permitted by law to be faxed. The submitting party is to retain the original of any faxed document, and shall provide it to the court only upon court order or request of opposing party.

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A fax filing cover sheet is required and must contain the following information:

- (1) The judicial officer to whom the fax filing is directed
- (2) The judicial officer who permitted a direct fax filing, if applicable, and the date and time of such authorization.

Fax filings must comply with all filing requirements otherwise listed in the State or Local rules. Compliance with all rules and proper transmission of the documents are the responsibility of the sending party and/or the fax filing service. (Effective 7/1/02)

2.12 Sealing of Juror Information

The addresses and telephone numbers of jurors may be sealed at the time the jurors are impaneled. Upon petition to the court, the information may be unsealed upon 20 days' notice to any juror who may be affected by a court order unsealing the information. Upon recording of the verdict in a criminal case, the court shall follow the procedure specified in the Code of Civil Procedure section 237. (Effective 7/1/02)

2.13 Courtroom Security

To ensure the security of the courthouses and courtrooms, no person, except those authorized to do so, shall enter any courthouse or courtroom carrying, or in possession of, any weapon or device as described in Penal Code section 171b, or any other thing that may reasonably be used as a weapon. "Weapon" includes any knife, even if less than 4 inches in length. Court security staff may search any person entering any courthouse or courtroom for possession of weapons. (Effective 7/1/02)

RULE 3: DOCUMENTS PRESENTED FOR FILING

3.1 Form and Filing of Documents, Generally

All documents filed with the Superior Court must conform to the rules established by the Judicial Council. Refer to California Rules of Court, Rules 201, 311-316, for form and format of documents presented for filing. Unless otherwise ordered or specifically provided by law, all moving and supporting papers filed with the Superior Court in Civil Cases must be done so in conformance with California Code of Civil Procedure section 1005. The court, in its discretion, may refuse to consider any paper not filed in conformance with this Rule.

The Napa Superior Court specifically exempts motions filed in Criminal Cases from the requirements of Code of Civil procedure section 1005. In Criminal Cases only, the court will accept moving papers 10 calendar days before the date set for hearing, opposition 5 calendar days before, and reply papers 2 court days before the hearing date.

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All California citations must be to the Official Reports. Parallel citations may be included. A copy of authority from other jurisdictions (except for federal authority) must be attached to the document. Unpublished or depublished cases may not be cited and the court will treat any argument relying upon such citations as unsupported (Effective 7/1/02)

3.2 Use of Judicial Council and Napa County Forms

All documents presented for filing shall be on the most current form adopted or approved by the Judicial Council and/or by the Court Executive Officer. The clerk will not accept for filing any form, document or pleading which is not in compliance with these rules. (Effective 7/1/93)

3.3 Declarations

All supporting and opposing declarations shall be made on personal knowledge, shall set forth admissible evidence, and shall show affirmatively that the affiant is entitled to the relief or order requested and is competent to testify to the matters stated therein. (Effective 7/1/02)

3.4 Proof of Service

If no proof of service is filed with the court prior to the time set for hearing, the matter may be taken off calendar. (Effective 7/1/02)

3.5 Judgments and Decrees

All written judgments and decrees presented for signature and filing shall be accompanied by a legible copy that shall be lodged with the clerk at the time of the filing. All motions and petitions shall be accompanied by a proposed order. (Effective 7/1/02)

3.6 Endorsing Copies

The executive officer will endorse a maximum of two copies of any filed document at the time of filing. Additional copies will be provided by photocopying and the standard fee for copies will be charged. (Effective 7/1/02)

3.7 Prepaid, Self-Addressed Envelopes Required

A self-addressed envelope with sufficient postage affixed is required for the mailed return of all documents submitted for endorsement. Copies submitted for endorsement without an envelope will be placed in the attorneys' "will-call box" in the office of the Court Executive Office. Endorsed items not picked up may be destroyed. (Effective 7/1/02)

3.8 Time and Date Must Be Shown

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When the date of the hearing for any law and motion matter is known, all papers filed for consideration at the hearing shall contain the hearing date, time, and the department, if known, below the action number. Failure to comply with these rules may result in documents not being before the court at the time of the hearing. (Effective 7/1/93)

3.9 Requests for Judicial Notice

Requests for Judicial Notice must include the matters to be noticed or the party requesting notice must arrange for the matter to be before the court at the time of the hearing. A copy of authority from another jurisdiction, except for federal authority, must be attached to the Request for Judicial Notice. (Effective 1/1/99)

3.10 Filing Documents in Matters Set on Shortened Time

For all matters set on shortened time, the last paper filed must be filed no later than 9:00 a.m. two days before the matter is scheduled to be heard by the court. (Effective 7/1/02)

RULE 4: CRIMINAL RULES

4.1 Filing Complaints and Citations

Initial complaints must be filed at the clerk's desk on the first floor of the Criminal Courthouse. In-custody complaints must be filed no later than 11:00 a.m. of the second court day following the defendant's arrest. All other complaints must be filed no later than 2 court days before the date set for arraignment. Each complaint or citation that is filed with the court must be accompanied by a sealed envelope marked "Confidential Defense Discovery Materials" that contains (1) a copy of the complaint or citation, (2) all crime reports, and (3) the defendant's criminal history. There must be a separate envelope for each defendant. (Effective 7/1/02)

4.2 Documents Necessary for a Hearing

Counsel must prepare in advance all documents necessary for any hearing, including, but not limited to, plea forms and probation orders. (Effective 7/1/02)

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4.3 Motions

Unless otherwise provided by law or these rules, all motions must be in writing, and must be filed and served no later than ten calendar days prior to the hearing. Responsive pleadings must be filed and served no later than five calendar days prior to the hearing. Reply papers must be filed and served no later than two court days prior to the hearing. (Effective 7/1/02)

4.4 Demurrers

Demurrers may be made after arraignment, and notwithstanding a plea having been entered. (Effective 7/1/02)

4.5 *In Limine* Motions

All *in limine* motions must be in writing. They must be filed and served at or before the Trial Management Conference. (Effective 7/1/02)

4.6 Jury Instructions and Verdict Forms

Jury Instructions and verdict forms must be submitted on the first day of trial. (Effective 7/1/02)

RULE 5: TRAFFIC INFRACTION TRIALS

5.1 Trial By Written Declaration

The court, pursuant to this rule, adopts the trial by declaration process, defined in Vehicle Code Section 40902. In addition, pursuant to Vehicle Code Section 40903, any person who fails to appear at trial as provided by law may be deemed to have elected to have a trial by written declaration. (Effective 7/1/93)

5.2 Traffic and Engineering Surveys

The court takes judicial notice of all surveys lodged with the court. Upon request, the certified survey shall be produced by the court for inspection by the defendant. (Effective 1/1/99)

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RULE 6: CIVIL RULES

6.1 Continuances

No motion or trial on the master or law and motion calendar will be continued except upon written motion with good cause shown. (Effective 7/1/02)

6.2 Case Management Conference

The Case Management Conference, provided by Rule 6.7.1, will be noticed no sooner than 120 days and no later than 180 days after the filing of the original complaint.

6.3 Trial Management Conference

Trial Management Conferences are generally held the on last court day of the week preceding the week in which the jury will be selected or, in a court trial, the first witness called. The case will be assigned to a trial judge at the Trial Management Conference. This assignment is deemed the assignment from the master calendar. The Trial Management Conference is deemed to be the commencement of trial for purposes of discovery and motion cutoff, disclosure of witnesses and expert witnesses and commencement of all trial related fees, such as jury and court reporter fees. *All in limine* motions will be heard at the Trial Management Conference and the court will attend to all other trial management issues to facilitate expeditious commencement of trial.

6.4 Short Cause Trials

Short cause cases shall be assigned a date certain at the time of the case management conference. Counsel must be prepared for trial on the date set. No continuances will be granted except upon a showing of good cause by a timely noticed motion. Stipulations to continue between counsel will not be construed as good cause unless approval has been obtained as a result of a timely noticed motion. (Effective 7/1/02)

6.5 Long Cause Trials

Long cause cases shall be assigned a date certain at the time of the case management conference. Counsel must be prepared for trial on the date set. No continuances will be granted except upon a showing of good cause by a timely noticed motion. Stipulations to continue between counsel will not be construed as good cause unless approval has been obtained as a result of a timely noticed motion. (Effective 7/1/02)

6.6 Trial Procedures

All exhibits, except for those used solely for impeachment purposes, must be exchanged between counsel no later than five court days prior to the date of trial.

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All exhibits the parties intend to introduce at the trial, except those to be solely used for impeachment purposes, must be pre-labeled by counsel and lodged with the Napa Superior Court (**If confirmed** at Trial Management Conference) no later than twelve o'clock noon, three calendar days prior to the date of trial. Pre-labeling consists of placing the Exhibit tag on the Exhibit with the case number written on the bottom center of the tag. Plaintiff must use yellow tags designated "Plaintiff". Defendant must use blue tags and designated "Defendant". Exhibits are **not** to be marked by number or letter.

All motions *in limine* must be in writing and filed with the Clerk of the Court no later than five court days prior to the date of trial. No oral motions *in limine* will be considered by the court.

The parties are ordered to lodge with the Clerk of the court all jury instructions they intend to request no later than the Trial Management Conference. The jury instructions must be completed with all blanks filled in and all bracketed portions either stricken or the brackets eliminated. BAJI Form 2.60 must be completed with all issues set forth separately as to each cause of action and each defense thereto

Court reporter fees are due and payable from the beginning of the hearing or trial. "Beginning" is defined as the moment the matter is assigned to the trial court and the judicial official calls the action for hearing or trial. Court reporter fees are collectable in family law and civil cases, including writs of mandate.

Court Reporter fees may be deposited with the Civil Division, Historic Courthouse, 1st Floor or mailed to 825 Brown Street, Napa CA 94559 for the estimated length of trial three days prior to trial. Any portion of the deposit remaining at conclusion of trial shall be refunded to counsel.

If paying daily, each party shall deposit their pro-rata share of \$120.00 per half-day with the Courtroom Clerk no later than the end of the morning session (if only half-day); OR shall deposit their pro-rata share of \$240.00 for the whole day no later than immediately prior to the commencement of the afternoon session. Per Government Code Sec. 68086(a)(3) and Rule 890, "one-half day means any period of judicial time during either the morning or afternoon court session." Pursuant to Government Code 68086, this is a mandated Court Reporters per diem fee.

If, for whatever reason (fee waiver/governmental agency) one side is not required to post fees, the other side(s) shall still be responsible for its pro rata share.

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Any delay in payment or deviation from above procedures shall immediately be referred to the trial judge for resolution.

If the case settles in its entirety either the week or two weeks prior to trial, both the Trial Management conference and the trial SHALL REMAIN on calendar unless dismissals or judgment are on file disposing of the entire case. Appearances are mandatory for all counsel. If dismissals and/or judgments are filed prior to the Trial Management conference disposing of the entire case, both the Trial Management conference and the trial date shall be vacated.

If your case settles in its entirety prior to the two weeks prior to trial, upon advisement by fax or letter or pleading, all pretrial and trial dates will be vacated and the matter will be set for an Order to Show Cause re Dismissal. Upon receipt of all dismissals and/or judgments disposing of all parties, the OSC re Dismissal shall be vacated.

Upon completion of trial, all exhibits shall be immediately returned to the offering party. Counsel must be prepared to assume total responsibility and custody of any exhibit offered or received in evidence at the conclusion of trial. Custody of all exhibits must be retained and be made readily available to the court within the following limits:

- a. Until 90 days following Judgment if no Appeal is filed.
- b. If an Appeal is filed, until 30 days following the date of filing Remittitur, assuming the Judgment is affirmed.
- c. If an Appeal is filed and the Judgment is reversed or otherwise requires further rehearing, until resolution of the matter.

6.7 Administration of Civil Litigation

6.7.1 Service of Complaint

Upon the filing of a Complaint, the plaintiff shall receive the following from the Clerk for service upon the parties:

1. Notice of Case Management Conference: the courtroom, date and time of Conference. The CMC will be set within 180 days of the filing date of the original complaint. The Court may continue this date if necessary to comply with Gov. Code §68616.
2. An ADR Information Packet

A. Forms with Summons and Complaint and Return of Proof of Service. The plaintiff shall serve the Summons and Complaint, which must be served together with a Notice of the Case Management Conference and the ADR Information Packet promptly after the pleading is filed. Proof of service shall be filed with the Court within ten days of this service. The ADR packet need not be served on any defendant in any civil action brought by the District Attorney or the Attorney General in the name of the People of the State of California.

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B. New Parties in Cross-Complaint. If a cross-complaint names new parties, the cross-complainant shall serve copies of the Notice of Case Management Conference and the ADR Information Packet on the new parties at the same time that the cross-complaint is served. (Effective 7/1/02)

6.7.2 Filing of Responsive Pleading

If the responsive pleading is a demurrer, motion to strike, motion to quash service of process, motion for a change of venue or a motion to stay or dismiss the case on forum non conveniens grounds, and the demurrer is overruled or the motion denied, the court shall fix the time by which a further responsive pleading shall be filed, which will normally not be more than 10 days following the date of ruling on the demurrer or motion. If a demurrer is sustained with leave to amend, the court shall fix the time (normally not more than 10 days) for filing an amended complaint and may fix a time for filing pleading responsive to such amended complaint. (Effective 7/1/02)

6.7.3 Mandatory Settlement Conferences

In addition to requirements of California Rule of Court 222(c), each party shall file and serve on each other party a settlement conference statement that must include a statement of the factual and legal contentions in dispute, a list of all special damages claimed, copies of pertinent medical reports, and other pictorial or documentary evidence pertinent to settlement, the highest previous offer and the lowest previous demand, the date when the last face to face or telephonic settlement discussion was held between all parties and a statement as to any special problems relating to settlement such as lack of or disputed insurance coverage.

It is the policy of the court to encourage settlements at any stage of the proceedings and the civil master calendar judge may, at the request of a party to the action, set a cause for a voluntary settlement conference on any date convenient to the court and counsel. (Effective 7/1/02)

6.7.4 Cases Stayed Under California Rule of Court 225(D)

Once notification is received regarding said stay, the court shall issue an Order to Show Cause re Removed Case with a review date approximately 180 days from the date of notification. (Effective 7/1/02)

6.7.5 Dismissal of Action or Entry of Judgment Following Settlement

If a case settles in its entirety within two weeks prior to trial both the Trial Management conference and the trial SHALL REMAIN on calendar unless dismissals or judgment are on file disposing of the entire case. Appearances are mandatory for all counsel. If dismissals and/or judgments are filed prior to the Trial Management conference

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disposing of the entire case, both the Trial Management conference and the trial date shall be vacated.

Following settlement of the action, the court will set a date (by order) by which the action shall be dismissed or judgment entered. In the event the parties do not comply with the court's order in this regard, the court, on its own motion will dismiss the action or enter judgment effective as of the date set for dismissal or entry of judgment by the court.

If a case settles in its entirety more than two weeks prior to trial, upon advisement by fax or letter or pleading, all pretrial and trial dates will be vacated and the matter will be set for an Order to Show Cause re Dismissal. Upon receipt of all dismissals and/or judgments disposing of all parties, the OSC re Dismissal shall be vacated. (Effective 7/1/02)

6.8 Structured or Conditional Settlements

Notice of Conditional Settlement must be submitted to the court in the form of a Notice of Conditional Settlement and Order for Dismissal. The court shall dismiss the case without prejudice, pursuant to the terms of the stipulated agreement. Upon noticed motion and a showing of good cause and default in the performance of the settlement, the court will reserve jurisdiction to set aside the dismissal and order entry of judgment.

6.9 Miscellaneous

Any request for extension of time or motion to continue, supported by good cause shown, must be signed by counsel and signed by the party, acknowledging the party concurs with the request. Neither the parties nor their counsel shall initiate communications with the research attorney staff, but shall promptly respond to inquiries directed to them by staff members. (Effective 7/1/02)

6.10 Uninsured Motorist Cases

An action for personal injury or property damage against an uninsured defendant may be designated an "uninsured motorist case" upon application and order of the plaintiff filed within 30 days of the commencement of the action. Upon the filing of such an application the court will set a hearing date 180 days from the date of the designation. At the hearing, the action will be dismissed (without prejudice) unless the court, for good cause, extends the time for resolution of the case. (Effective 7/1/02)

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RULE 7: FAMILY LAW PROCEEDINGS

7.1 Scope

Family law matters include all matters related to the Family Law Act, Uniform Parentage Act, the Domestic Violence Prevention Act, the Uniform Child Custody Jurisdiction Act, and Guardianships. The Family Law Division manages cases pursuant to Family Code sections 2450-2452. (Effective 7/1/02)

7.2 Service and Filing

All documents filed with the court must comply with Rule 3. (Effective 7/1/02)

7.3 Declarations

Parties must file completed Income and Expense and Property declarations, along with all necessary supporting documents, unless otherwise excused by law. The parties must exchange their most recent tax returns at least 5 days before the hearing date, unless otherwise ordered by the court. (Effective 7/1/02)

7.4 Ex Parte Orders

Any party requesting an ex parte order must file the court's ex parte request declaration. (Effective 7/1/02)

7.4.1 Declarations Required in Ex Parte Requests for Temporary Restraining Orders

Declarations submitted to the court with a request for an ex parte temporary restraining order must specifically include the date(s) of the incidents, a description of the facts in detail and the specific harm caused or threatened upon which the party is seeking extraordinary relief. Conclusions, feelings, wishes or fears, will not adequately support an ex parte order. (Effective 7/1/02)

7.4.2 Conditions for Issuance of Ex Parte Orders

The applicant must state why a noticed hearing or a hearing on shortened time is not sufficient for the relief requested. Declarations in support of the application must be based on the declarant's personal knowledge. The declaration must in itself be adequate, and supported by admissible evidence, to warrant the relief requested. It cannot contain hearsay statements of persons other than the declarant, and it cannot be augmented by oral statements to the court.

The party requesting ex parte orders must inform the judge if the opposing party is represented by counsel or is self-represented. Reasonable notice must be provided to all

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opposing parties or their counsel, if represented by counsel. Notice must include the date and time the application will be made, and the nature of the relief sought.

If the opposing party has retained counsel, the moving party must inform the judge of the name, address and telephone number of opposing counsel and whether or not reasonable notice has been given to opposing counsel so that opposing counsel may have the opportunity to oppose the application in chambers.

THERE IS AN ABSOLUTE DUTY TO DISCLOSE THE FACT THAT A REQUESTED EX PARTE ORDER WILL RESULT IN A CHANGE OF STATUS QUO.

Notice of the hearing by telephone, fax or personal delivery must be given at least 24 hours preceding the hearing. Notice by mail must be given at least five days prior to the day of the hearing. Notice by overnight mail or same day carrier must be given at least two days before the hearing. Service by mail is allowed only when notice by telephone, fax or personal delivery is not possible. Notice may be excused if it would frustrate the very purpose of the order and lead the applicant to suffer immediate and irreparable injury.

If the moving party does not appear within 15 minutes of the scheduled time, the opposing party is released and the application is denied. (Effective 7/1/02)

7.4.3 Exceptions to Notice & Declaration Requirements

Ex parte orders may only be obtained without notice and supporting declarations in cases of domestic violence and if it appears from the declaration in support of the application that great or irreparable harm would result to the applicant before the matter may be heard if notice is given, or that giving notice would defeat the purpose of the application. (Effective 7/1/02)

7.4.4 Exclusive Use of a Vehicle

No ex parte order will be granted giving one party the exclusive use of a vehicle unless the declaration demonstrates that the opposing party has suitable transportation available or requires no such transportation, or for other good cause. (Effective 7/1/02)

7.5.5 Removal From a Residence

No ex parte order will be granted removing a party from a residence except in cases of domestic violence where the moving party's declaration sets forth facts required by Family Code section 6321. (Effective 7/1/02)

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7.4.6 Modified Orders

If the court modifies any requested order, it will be the responsibility of the applicant or attorney to conform all copies with the changes before filing and service. (Effective 7/1/02)

7.4.7 Setting Aside Ex Parte Orders

If a responding party requests that an ex parte order be set aside prior to the date set for hearing, notice must be given to the moving party in accordance with Rule 7.4.2. The court may order an earlier hearing date or modify the orders on a proper showing in lieu of setting aside the orders. (Effective 7/1/02)

7.5 Special Procedures for Domestic Violence Restraining Orders and Injunctive Relief

To enforce temporary restraining orders, applicants or their counsel must deliver a copy of the orders to a designated law enforcement agency. The order must have a file-endorsed stamp by the Court Executive Officer in the upper right hand corner and the expiration date of the order should be clearly marked on the face of the document. Temporary restraining orders and orders issued at the order to show cause hearing delivered to law enforcement agencies must include a specific expiration date.

Where an order is issued restraining or enjoining domestic violence and that order is terminated before the expiration date, extended beyond that date or otherwise modified, counsel must immediately notify the designated law enforcement agency in writing of such termination, extension or modification.

Where a temporary restraining order is issued ex parte to be effective until the date set for hearing and the hearing date is later continued to a subsequent date, the temporary restraining order shall terminate unless the court orders that it will remain in effect until a subsequent date. In the event the temporary order is continued by court order to a subsequent hearing date, applicants must deliver a copy of the new order to the designated law enforcement agency. (Effective 7/1/02)

7.6 Procedures for Document Signature

All emergency court orders must be reviewed by the Court Clerk to determine compliance with these rules and only after being initialed by a deputy will be submitted to the court for the judge's approval and signature.

All other documents and court orders shall be delivered and filed with the civil division of the Court Clerk for review and submittal to the court for the judge's signature. All orders and judgments prepared by counsel after hearing or trial shall be submitted to opposing

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counsel for approval as to form and content prior to submission to the court for the judge's signature. (Effective 7/1/02)

7.7 Family Law Calendar

All family law matters except child support enforcement, guardianships and motions are calendared in the Master Family Law department. Counsel and the parties must be prepared to proceed at that time. Unless the issues have been resolved or both parties stipulate to a continuance, the court will assign all matters to a department on a date and time certain within that calendar week. Counsel or self-represented parties shall state their names, appearances, whether moving or responding and an accurate time estimate for the hearing on the matter of issues not agreed upon, including preliminary statements, testimony and closing comments.

The court will grant priority, where possible, to matters where special circumstances exist (e.g. out of town counsel or parties, witnesses under subpoena or present in court.) Normally the court will not assign matters for hearing prior to 9:30 a.m. on the date calendared for hearing and will allow counsel for the parties to confer and exhaust settlement discussions prior to assigning the matter for hearing. On the calendar call the court will give preference to stipulations, requests for continuances, and uncontested matters. Matters set for hearing at the Master Calendar will not be continued without good cause. (Effective 7/1/02)

7.7.1 Family Law - Law and Motion Calendar

Law and Motion relating to family law matters may be set on the family law calendar, generally at 1:30 p.m. Tuesday and Thursday. (Effective 7/1/02)

7.7.2 Conflict With Other Court Appearance

It is the responsibility of counsel to make suitable arrangements in the event of calendar conflicts. Counsel are expected to arrange for coverage or to arrange continuances with the court and all parties or counsel for parties in the event of calendar conflicts. (Effective 7/1/02)

7.8 Setting Matters

All trials with a time estimate of less than 5 hours will be set according to the rules for Short Cause Trials. Those trials with time estimates greater than 5 hours will be set following the general rules for trials on the Civil Law Calendar. (Effective 7/1/02)

7.9 Matters Taken Off Calendar

After service of the moving papers, no matter shall be taken off calendar without notice to the responding party or attorney and the court. The parties and their attorneys must

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notify the civil division immediately by telephone in the event the matter will not proceed to hearing. This notification should be followed by a written transmittal signed by the party and/or the attorney confirming that the matter is to be taken off calendar with a copy to opposing counsel. (Effective 7/1/93)

7.10 Continuances

The court will routinely grant continuances of orders to show cause and hearings of motions, prior to calendaring for hearing on the filing of a written stipulation signed by both counsel (or self-represented parties.) For matters set for hearing, continuances will be granted only upon a showing of good cause. Continuances of trial (whether long or short cause) will only be granted on a noticed motion to continue showing of good cause. (Effective 7/1/02)

7.11 Unserved Orders to Show Cause

If an OSC cannot be timely served, the parties should use the current Judicial Council form, "Application for Order for Reissuance of Order to Show Cause," adopted by Rule 1296.15 of the California Rules of Court. They must also attach an endorsed copy of the unserved OSC to the application. (Effective 7/1/02)

7.12 Orders Shortening and Extending Time

An order shortening time for service or extending the duration of ex parte orders will not be granted unless supported by a declaration demonstrating good cause. If an order shortening time for service is requested, the supporting declaration must state whether or not the responding party is represented by counsel, the name and address of the responding party's attorney and whether or not that attorney has been contacted and has agreed to the date and time proposed for the hearing. If the responding party's attorney has not been contacted or has not agreed to the proposed setting, the supporting declaration must clearly demonstrate why the hearing should be set on the proposed date without the consent of the opposing counsel. Provision for immediate delivery of the pleading to opposing counsel's office should be set forth in the order.

A declaration in support of an order shortening time for service must show emergency circumstances unless it is to enable a responding party to file moving papers and obtain affirmative relief on the same hearing date and time previously set by the moving party. Anticipated problems of serving the responding party, will not be sufficient basis for an order shortening time for service. (Effective 7/1/02)

7.13 Default, Status Only and Uncontested Dissolutions

Default, status only or uncontested dissolutions will be heard on the law and motion family law calendar, 1:30 p.m. Tuesday and Thursday. (Effective 7/1/02)

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7.14 Hearings - General

A. Presence of Parties and Attorneys

If a party or attorney cannot personally appear because of illness, extreme economic hardship, or other good cause, that party or his or her attorney must immediately contact the other party and every reasonable effort shall be made to continue the hearing. In the absence of a negotiated continuance or settlement, the party must file a declaration detailing the communication or attempted negotiations with the other party and a request for a reasonable continuance.

B. Failure to Appear

Failure of the moving party or attorney to be present at the calendar call, or to have informed the clerk of his presence, shall result in the matter being removed from the calendar and, if the responding party has appeared, attorneys fees and costs may be awarded to the appearing party. In the event the responding party fails to appear, the court may continue the matter and award attorneys fees, or enter an order on the pleading and testimony of the moving party.

C. Tardiness

If, for any reason, an attorney or client is unable to be present at the time of the calendar call, the court and opposing party must be notified immediately by phone of the reasons for, and the extent of, such delay.

D. Prehearing Settlement Efforts

No case on the family law calendar will be heard unless and until counsel, with their respective clients either physically present or immediately physically available, have met and conferred in a good faith effort to resolve all issues. All relevant documents shall be exchanged by counsel while conferring absent good cause to the contrary. Failure to so meet and confer may result in the matter being dropped from calendar or continued, or rejection of documents not so exchanged, or other appropriate sanctions.

When the attorneys have informed the court that they are conducting settlement discussions, the matter will remain on calendar until heard, continued or otherwise disposed of.

Counsel for the moving party is expected to contact opposing counsel in advance of the hearing to ascertain whether or not the issues can be settled without a contested hearing. Failure to make such contact and conduct settlement in good faith may have a bearing on attorney's fees to be awarded and/or sanctions to be imposed.

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Copies of all documents intended to be offered as part of the case in chief must be provided to opposing parties prior to the court hearing so that meaningful settlement discussions can occur. An exception applies if a document clearly and substantially impeaches the veracity of a party or witness and is to be offered for that purpose.

E. Calling the Case

All matters may be heard on the date originally calendared or may be set for trial or hearing in one of the departments of the court during that same calendar week. In the event a matter cannot be heard because of the unavailability of court time for hearing, it will be continued to a Monday calendar for hearing or may be assigned a special setting at some future date.

At the hearing, moving party's attorney will be asked to state the issues. The responding party will be asked to concur in moving party's statement of issues and to state any additional issues. Attorneys are expected to be thoroughly prepared to answer the questions of the court concerning the facts of the case and cite applicable statutory and case law if an unusual or contested point of law is involved. Sworn oral testimony of the parties normally will be allowed, however, the court in its discretion may take offers of proof and/or submit the matters on declarations.

F. Income & Expense Declarations

Both parties must serve and file current income and expense declarations and property declarations 2 days before the date of the trial or hearing at which the court must determine any issues to which such declarations would be relevant. (Effective 7/1/02)

7.15 Preparation of Order After Hearing

Unless otherwise ordered by the court, the moving party must, within 10 days following the court's ruling, prepare a written order following any hearing on the family law calendar. The preparing party must serve the order upon the responding party and the responding party must, within 10 days from receipt, approve the order, or refuse to approve the order stating the alternative proposed language.

If the responding party fails to approve or object to the order within 10 days of receipt, the moving party then may mail the order to the hearing judge for signature, accompanied by a letter (with copy to the responding party) stating that the order was mailed to the responding party on a certain date, the circumstances surrounding the failure to sign, and requesting the judge to sign it.

If the preparing party fails to prepare and mail the order as required, then the responding party may prepare the proposed order and mail it directly to the hearing judge without seeking the approval of opposing counsel, along with a letter to the hearing judge (with a

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copy of the opposing party) setting forth the applicable dates according to this Rule, and requesting the judge to sign it.

If there is a disagreement between the parties concerning the accuracy of the prepared order, then either party may request the court to compel entry of the order and refer the court to applicable portions of the hearing transcript.

Attorney's fees, and costs, including costs of preparing the reporter's transcript, may be awarded depending upon the merits. (Effective 7/1/02)

7.16 Contempt

After the contempt hearing, it is the responsibility of the moving party to prepare an order for the signature of the judge, setting forth the findings and orders of the court. The party, or attorney, preparing the order after hearing must set forth all findings of the court: factual findings of the existence and current validity of a described order, knowledge of the contemnor of that order, ability to comply with the order, the violation of that order, and the willfulness of that violation. Thereafter there shall be set forth the orders of the court with regard to the finding of contempt, and the sentencing. No contempt order will be signed by the court without compliance with the foregoing.

After a finding of contempt and a sentencing thereon, no stay of execution will be granted. Counsel are expected to advise their clients of this fact in advance of the court hearing. (Effective 7/1/02)

7.17 Settlement Conference

7.17.1 Settlement Conference: Voluntary

Upon request of any party, a settlement conference may be held in a long cause family law case within 30 days before trial, or at such other time as the court may direct. Each party and the attorney for each party must personally attend the settlement conference unless specifically excused by the court. (Effective 7/1/02)

7.17.2 Discovery

Discovery must be completed not later than five days prior to the settlement conference, except upon order of court for good cause. (Effective 7/1/02)

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7.17.3 Settlement Conference Statements

A. Time Requirements

At least five days before the settlement conference or 10 days before if service is by mail, each party must prepare, file and serve on the other party a settlement statement as set forth below.

B. Contents

- (1) Caption: The caption shall contain times and dates of the settlement conference and trial.
- (2) Income and Expenses: In all cases where support is in issue, a current signed and dated income and expense declaration (family law) shall be prepared on the Judicial Council form prescribed by Rule 1285.50, California Rules of Court. In addition, all income and other financial information as required by Rule 7.21 shall be attached.

C. Community Property (Assets & Liabilities)

In all cases where property issues (characterization, division and/or valuation) are unresolved, each party must prepare a comprehensive inventory of all assets (real and personal) and liabilities claimed by the parties to be community property and/or community debt. This inventory can either be typed on to Judicial Council forms prescribed by rules 1295.55 and 1295.56 with appropriate sub-headings to indicate the pertinent rule 1285.55 categories or may be prepared in any form which contains substantially the same information as set forth on the Judicial Council forms.

The parties must attach copies of the completed inventory assets and liabilities forms indicating their claim to values and proposal for division of the property to their settlement conference statements.

In all cases where the characterization of real or personal property of the parties (whether community or separate) or reimbursement for contributions to the community from a separate property source is in issue, the parties must set forth all of the facts upon which their claims are based and cite appropriate legal authorities for each of those claims. (Effective 7/1/02)

7.18 Trial Exhibits

See Local Rule 6.6 Trial Procedures. (Effective 7/1/02)

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7.19 Child Custody and Visitation

7.19.1 Ex Parte Orders Changing the Status Quo Regarding Custody and Visitation

The Family Law Court will not to grant ex parte orders changing the status quo of visitation and/or custody without a very strong factual showing of grave danger or severe detriment to the child before the matter can be properly set on the order to show cause calendar or noticed for hearing with both parties present and afforded the opportunity to be heard. The provisions of Rule 7.4, governing ex parte orders, apply to this section.

The court refers disputes relating to custody and visitation to Family Court Services. (Effective 7/1/93)

7.19.2 Temporary Custody and Visitation Orders

- A. All temporary custody and visitation matters will be heard by the court each Monday morning at 8:30 a.m.
- B. At that time, the court may refer the parties to Family Court Services for mediation.
- C. Where the court makes an order to go to the Family Court Services Office, the Family Court Services secretary will be present in court and will fill out an order to appear . The parties must sign the order to appear, acknowledging their receipt of the order at that time. In the event a party is not present at the hearing, it shall be personally served upon that party.

In the event the acknowledgment of receipt of the order to appear in the Family Court Services is not signed by both parties, or personally served on each of them with a return of service filed with the clerk of the court three court days prior to the scheduled appearance, the Family Court Services will cancel the appointment. (Effective 1/1/99)

7.19.3 Default Judgments

Where the judgment is taken by default and there is an attached written agreement between the parties concerning custody and visitation, an attached factual declaration must set forth the following:

- (1) Where the party is seeking joint custody, what specified contact with the child the defaulting party will have.
- (2) Where the party is seeking to deny visitation between the child and the defaulting party, the reasons visitation should not be ordered.

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In preparing the declaration, the party must inform the court when the parties were separated, who has been the primary caretaker of the child during the past 6 months and the extent of contact between the child and the non-caretaker parent during that time. (Effective 1/1/99)

7.19.4 Appointment of Counsel for Child

(1) In any proceeding covered by the Family Law rules, the court may, if it finds it would be in the best interest of the minor child, appoint private counsel to represent the interests of the child. (Family Code section 3151.)

(2) When the court appoints counsel to represent the minor, counsel shall receive a reasonable sum for compensation and expenses, the amount determined by the court and paid by the parents in such proportion as the court deems just or by the County pursuant to Family Code section 3153.

(3) Nothing shall prohibit the Family Court Services Counselor or Probation Department from advising the court that private counsel for the child should be appointed pursuant to Family Code sections 3114 and 3150. In making any recommendation, the Family Court Services counselor or Probation Department shall inform the court of the reasons why it would be in the minor child's best interests to have private counsel appointed. (Effective 1/1/99)

7.20 Family Court Services

7.20.1 Mediation - Custody and Visitation

In all proceedings where there is a contested issue regarding the custody of or visitation of a minor child, the matter shall be set for mediation of the contested issues pursuant to Section 3107 et seq. of the California Family Code and these rules. (Effective 1/1/99)

7.20.2 Court Order - Custody and Visitation Agreements

In the event the parties reach an agreement with respect to custody and visitation rights of their minor children and desire this agreement to be court ordered, the attorneys for the parties shall sign the agreement, approving it as to form, and submit it to the court for the signature of the Family Law Judge. (Effective 7/1/02)

7.20.3 Mediator's Recommendations

With respect to all matters referred to Family Court Services where an agreement has not been reached between the parties regarding the issues of custody and visitation, the mediator shall report this to the court. (Effective 7/1/02)

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7.20.4 Failure to Appear - Contempt

In the event a party fails to appear at Family Court Services at the time and date as required by these rules or orders of the court, the non-appearing party will be considered in contempt of an order of this court and may be punished by fine and imprisonment. (Effective 7/1/02)

7.21 Child and Spousal Support

In all proceedings where child and/or spousal support is in issue, the parties are required (in addition to the income and expense declaration) to serve on the opposing party, the following; the last three pay stubs; state and federal income tax returns for the past two years; any records regarding income of the parties since filing the most recent tax return, statements of income and expense and assets and liabilities regarding any entity in which the party has or had an interest within the past three years and any individual financial statements (including income and expense and assets and liabilities) prepared within three years of the hearing date.

Income and expense declarations filed with the court must be complete. All blanks must be filled in unless inapplicable, in which case the designation N/A must be inserted. (Effective 7/1/02)

7.22 Family Law Facilitator

The Napa County Superior Court has established an office of Family Law Facilitator for self-represented parties. The court will make referrals to the Family Law Facilitator as appropriate. By this rule, the court designates and establishes in the office of the Family Law Facilitator all the duties prescribed or permitted by the Family Law Facilitator Act, Family Code section 10000 et seq. (Effective 7/1/02)

RULE 8: ADOPTION PROCEEDINGS

8.1 Adoption Hearings

Adoption hearings will be scheduled at the request of petitioner or counsel on any Probate Court appearance calendar. All proposed reports, orders, accounting, agreements, consents, and other pleadings required by law shall be on file prior to scheduling a hearing. (Effective 1/1/99)

8.2 Access to Adoption Files

Applications for access to sealed adoption files shall be submitted on a form to be provided by the Court Executive Office. Applicants shall set forth a detailed factual

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showing sufficient to establish good cause approaching the necessitous. (Effective 7/1/93)

RULE 9: PROBATE

Except as otherwise specified by these rules the procedures set out in the California Rules of Court and Probate Code govern all probate proceedings. (Effective 7/1/02)

9.1 Probate Days

The Probate Calendar is heard in the Civil Trial Department at 8:30 a.m. Monday through Friday. The probate calendar includes probate and conservatorship matters. Guardianships are heard on the Family Law calendar. (Effective 7/1/02)

9.2 Preparation of Orders

All motions and petitions must be accompanied by a proposed Order or Letters. (Effective 7/1/02)

**9.3 Pre-Approved Probate Calendar
See Tentative Ruling System, Local Rule 2.10**

Routine unopposed probate matters submitted by counsel and approved by a tentative ruling, with the exception of the matters listed in Rule 9.4, do not require appearance by counsel. If the matter is not approved by tentative ruling, the tentative ruling will state that the court is either continuing the case for two weeks for any defects to be remedied, or placing the matter on the calendar for appearance by counsel. For approved matters, the court will file the order and/or Letters and return up to two endorsed copies to counsel's courthouse folder. Counsel requiring return of endorsed copies by mail must submit a self-addressed stamped envelope. (Effective 7/1/02)

9.4 Matters Requiring Appearance

The following probate matters require appearance of counsel or parties at the hearing:

- A. Application for appointment of conservator;
 - B. Termination of conservatorship (other than by death of the conservatee);
 - C. Contested matters;
 - D. Other matters at the request of the Court.
- (Effective 7/1/02)

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9.5 Filing Objections--Continuances

Objections to a matter on the probate calendar must be asserted at the hearing and filed and served by mail on the attorney for petitioner 5 days prior to the hearing. If the attorney representing the petitioning party has not been forewarned of the objections and is not at the hearing, the matter will be continued for two weeks. Written objections shall then be filed and served 5 court days prior to the continued hearing date. (Effective 7/1/02)

9.6 Costs

Costs must be itemized. However, up to a total of \$200.00 in "miscellaneous costs" for duplication or telephone calls or the like by the personal representative or the attorney may be approved without itemizing. (Effective 7/1/93)

9.7 Compensation of Attorneys, Conservators, Guardians, Trustees and Requests for Extraordinary Fees

A. Payment Only After Court Approval: No compensation for conservators or guardians or their legal counsel, or for extraordinary fees, shall be paid without prior court approval.

B. For trusts or conservatorship estates up to \$200,000 in fair market value of the principal, the court will deem 1% at the close of the accounting period to be reasonable compensation and will not require detailed information as to the value of services rendered. For estates with a fair market value of the principal over \$200,000, and for extraordinary fees, the court will grant reasonable compensation supported by a detailed statement of facts upon which the application is based.

These facts may include:

- (1) Relative value and gross income of the estate.
- (2) Benefit or loss due to administration by the petitioner
- (3) The quality and extent of services performed by the petitioner for the benefit of the conservatee, ward or estate, and the character of work performed, i.e., whether routine or involving special skill or judgment.
- (4) The amount of responsibility assumed and exercised by the person requesting compensation.
- (5) Time spent for services benefiting conservatee or ward, or estate.

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- (6) Customary hourly charges for similar services of other private or professional fiduciaries or attorneys.
 - (7) Amount charged by the petitioner for similar cases.
 - (8) In the case of a final account, a reasonable estimate of work and time still needed to complete the matter.
- (Effective 7/1/02)

9.8 Statutory Fees And Commissions In Decedents' Estates

In decedents' estates, allowances on account of statutory fees or commissions will be granted by the court only in proportion to the work actually completed. The last twenty-five percent (25%) of statutory fees or commissions will not be allowed before the approval of the final account and the decree of distribution, unless it can be shown that payment of a greater amount will benefit the estate. All or substantially all of the statutory fees or commissions may be allowed when it is shown that services have been performed but that the estate has not closed because of reasons beyond the control of the petitioning party. (Effective 7/1/02)

9.9 Preliminary Distributions

Petitions for preliminary distributions must include a statement as to why the estate may not now be closed. (Effective 7/1/02)

RULE 10: JUVENILE COURT RULES

10.1 Appointment For Counsel For The Child

The court must appoint counsel for the child in accordance with the provisions of California Rules of Court, rule 1438(b). Any attorney appointed to represent the child must meet the competence requirements set forth in Rule 10.1 of these rules and must comply with the practice standards set forth in Rules 10.4 and 10.5 of these rules. (Effective 7/1/02)

10.2 Competency Requirements for Counsel

A. Effective January 1, 2001, all attorneys who represent parties in juvenile court proceedings shall meet the minimum standards of training and/or experience set forth in these rules. Each attorney of record for a party to a dependency matter pending before the court on January 1, 2001, who has not been previously certified under these rules, and who believes that he or she meets the minimum standards of competency, shall complete and submit to the court, on or before July 31, 2001, a Certificate of Competence as set forth in Appendix A to these rules. After July 1, 2001, any attorney

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appearing in a dependency matter for the first time shall complete and submit a Certificate of Competence to the court within 10 days of his or her first appearance in a dependency matter.

B. Attorneys who meet the minimum standards of training and/or experience as set forth here, as demonstrated by the information contained in the Certificate of Competence submitted to the court, shall be deemed competent to practice before the juvenile court in dependency cases except as provided in subdivision C of this rule.

C. Notwithstanding the submission of a Certificate of Competence that demonstrates that the attorney has met the minimum standards for training and/or experience, the court may determine, based on conduct or performance of counsel before the court in a dependency case within the six month period prior to the submission of the certification to the court, that a particular attorney does not meet minimum competency standards. In such cases, the court shall proceed as set forth in Rule 10.7.

D. The Court Executive Officer is responsible for maintaining and monitoring Certificates of Competence for accuracy and compliance with renewal requirements and for maintaining a roster of attorneys who meet the requirements of this rule. Appointments may only be made from the most up-to-date roster.

E. Any attorney appearing before the court in a dependency case pending on January 1, 2001 who does not meet the minimum standards of training or experience shall notify the court to that effect and shall have until July 1, 2001, to complete the minimum number of hours of training required to fulfill the requirements of these rules. If the attorney fails to complete such training, the court shall order, except in cases where a party is represented by retained counsel, that certified counsel be substituted for the attorney who fails to complete the required training. In the case of retained counsel, the court shall notify the party that his or her counsel has failed to meet the minimum standards required by these rules. The determination whether to obtain substitute private counsel shall be solely within the discretion of the party so notified.

F. In the case of an attorney who maintains his or her principal office outside of this county, proof of certification by the juvenile court of the California county in which the attorney maintains an office shall be sufficient evidence of competence to appear in a juvenile proceeding in this county. (Effective 7/1/02)

10.3 Minimum Standards Of Education And Training

A. All attorneys appearing in juvenile dependency proceedings must meet the minimum standards of competence set forth in these rules. These rules are applicable to attorneys representing public agencies, attorneys employed by public agencies or public or private organizations providing legal services under contract with the court, attorneys appointed by the court to represent any party in a juvenile dependency proceeding, and

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attorneys who are privately retained to represent a party to a juvenile dependency proceeding.

B. Attorneys appearing in a dependency matter before the juvenile court shall not seek certification and shall not be certified by the court as competent until the attorney has completed the following minimum training and educational requirements. Prior to certification, the attorney shall have either have:

1. Participated in at least eight hours of training or education in juvenile dependency law, which training or education shall have included information on the applicable case law and statutes; the rules of court; judicial council forms; trial techniques and skills; writs and appeals; child development; child abuse and neglect; family reunification, family preservation, and reasonable efforts; domestic violence; and substance abuse, or
2. At least six months of experience in dependency proceedings in which the attorney has demonstrated competence in the attorney's representation of his or her clients in said proceedings. In determining whether the attorney has demonstrated competence, the court shall consider whether the attorney's performance has substantially complied with the requirements of these rules.

C. In order to retain his or her certification to practice before the juvenile court, each attorney who has been previously certified by the court shall submit a new Certificate of Competence to the court on or before January 31st of the third year after the year in which the attorney is first certified and then every third year thereafter. The attorney shall attach to the renewal Certificate of Competence evidence that he or she has completed at least eight hours of continuing training or education directly related to dependency proceedings since the attorney was last certified. Evidence of completion of the required number of hours of training or education may include a copy of a certificate of attendance issued by a California MCLE provider; a certificate of attendance issued by a professional organization which provides training and/or education for its members, whether or not it is a MCLE provider; a copy of the training or educational program schedule together with evidence of attendance at such program; or such other documentation as may reasonably be considered to demonstrate the attorney's attendance at such program. Attendance at a court-sponsored or approved program will also fulfill this requirement.

D. The attorney's continuing training or education shall be in the areas set forth in subdivision B(1) of this rule, or in other areas related to juvenile dependency practice including, but not limited to, special education, mental health, health care, immigration issues, the rules of evidence, adoption practice and parentage issues, state and federal public assistance programs, the Uniform Child Custody Jurisdiction and Enforcement Act, the Parental Kidnapping Prevention Act, the Adoption and Safe Families Act, the Indian Child Welfare Act, the Interstate Compact of the Placement of Children, client interviewing and counseling techniques, case investigation and settlement negotiations, mediation, basic motion practice, and the rules of civil procedure.

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E. When a certified attorney fails to submit evidence that he or she has completed at least the minimum required training and education to the court by the due date, the court must notify the attorney that he or she will be decertified. That attorney shall have 20 days from the date of the mailing of the notice to submit evidence of his or her completion of the required training or education. If the attorney fails to submit the required evidence or fails to complete the required minimum hours of continuing training or education the court must order, except in cases where a party is represented by retained counsel, that certified counsel be substituted for the attorney who fails to complete the required training. In the case of retained counsel, the court must notify the party that his or her counsel has failed to meet the minimum standards required by these rules. The determination whether to obtain substitute counsel shall be solely within the discretion of the party so notified. (Effective 7/1/02)

10.4 Standards of Representation

All attorneys appearing in dependency proceedings must comply with the following minimum standard of representation:

A. The attorney shall thoroughly and completely investigate the accuracy of the allegations of the petition or other moving papers and the court reports filed in support thereof. This shall include conducting a comprehensive interview with the client to ascertain his or her knowledge of and/or involvement in the matters alleged or reported; contacting social workers and other professionals associated with the case to ascertain if the allegations and/or reports are supported by accurate facts and reliable information; consulting with and, if necessary, seeking the appointment of experts to advise the attorney or the court with respect to matters which are beyond the expertise of the attorney and/or the court; and obtaining such other facts, evidence or information as may be necessary to effectively present the client's position to the court.

B. The attorney shall determine the client's interests and the position the client wishes to take in the matter. Except in those cases in which the client's whereabouts are unknown, this shall include a comprehensive interview with the client. If the client is a child, in addition to interviewing the child, the attorney shall also interview the child's caretaker. If the caretaker is a parent, the child's attorney must obtain the consent of the parent's attorney before the parent may be interviewed. If the child is placed out-of-home, the attorney or the attorney's agent shall make at least one visit to the child at the child's placement prior to the jurisdiction hearing. Thereafter, the attorney or the attorney's agent should make at least one visit to the child at the child's placement prior to each review hearing or more frequently if necessary to establish and maintain an adequate and professional attorney-client relationship.

C. The attorney shall advise the client of the possible courses of action and of the risks and benefits of each. This shall include advising the client of the risks and benefits of

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resolving disputed matters without the necessity for a hearing and of the necessity for adhering to court mandated time limits.

D. The attorney shall vigorously represent the client within applicable legal and ethical boundaries. This shall include the duty to work cooperatively with other counsel, CASA, and the court to comply with local rules and procedures as well as with statutorily mandated timeline and to explore ways to resolve disputed matters without hearing if it is possible to do so in a way that is consistent with the client's interests. (Effective 7/1/02)

10.5 Caseload Standards

Every attorney appointed to represent children must take care to ensure that he or she can adequately and competently represent all of the attorney's clients in a manner consistent with the requirements of Welfare and Institutions Code section 317(c), California Rules of Court, rule 1438, and these rules. Any attorney who is unable to meet these requirements because of the size of the attorney's caseload or the demands of a particular case or cases, must notify the juvenile court judge that the attorney is unable to accept any new cases. Further, said attorney must move to be relieved as attorney of record in any existing case in which the attorney cannot provide adequate and competent representation. Upon an adequate showing, the court must appoint substitute counsel for the child. (Effective 7/1/02)

10.6 Procedures For Reviewing And Resolving Complaints

A. Any party to a juvenile court proceeding may lodge a written complaint with the court concerning the performance of his or her appointed attorney in a juvenile court proceeding. In the case of a complaint concerning the performance of an attorney appointed to represent a child, the complaint may be lodged on the child's behalf by the social worker, a caretaker relative, or a foster parent.

B. Each appointed attorney shall give written notice to his or her adult clients of the procedure for lodging complaints with the court concerning the performance of an appointed attorney. The notice shall be given to the client within 10 days of the attorney's appointment to represent that client. Evidence that a copy of said notice was given or mailed to the client shall be provided to the court within 10 days of a request therefore from the court. In the case of a child client, the notice shall be mailed or given to the current caretaker of the child. If the child is 12 years of age or older, a copy of the notice shall also be sent or given to the minor.

C. The court shall review a complaint within ten days of receipt. If the court determines that the complaint presents reasonable cause to believe that the attorney may have failed to act competently or has violated local rules, the court shall notify the attorney in question of the complaint, shall provide the attorney with a copy of the complaint and

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shall give the attorney twenty days from the date of the notice to respond to the complaint in writing.

D. After a response has been filed by the attorney or the time for submission of a response has passed, the court shall review the complaint and the response if any to determine whether the attorney acted contrary to local rules or has acted incompetently. The court may ask the complainant or the attorney for additional information prior to making a determination on the complaint.

E. If, after reviewing the complaint, the response and any additional information, the court finds that the attorney acted contrary to the rules of the court, the court may reprove the attorney, either privately or publicly, and may, in cases of willful or egregious violations of local rules, issue such reasonable monetary sanctions against the attorney as the court may deem appropriate.

F. If, after reviewing the complaint, the response and any additional information, the court finds that the attorney acted incompetently, the court may order that the attorney practice under the supervision of a mentor attorney for a period of at least six months, or that the attorney complete a specified number of hours of training or education in the area in which the attorney was found to have been incompetent, or both. In cases in which the attorney's conduct caused actual harm to his or her client, the court shall order that competent counsel be substituted for the attorney found to have been incompetent and may, in the court's discretion, refer the matter to the State Bar of California for further action.

G. The court shall notify the attorney and the complaining party in writing of its determination of the complaint. If the court makes a finding under subdivisions (e) or (f), the attorney shall have 10 days after the date of the notice to request a hearing before the court concerning the court's proposed action. If the attorney does not request a hearing within that period of time, the court's determination shall become final.

H. If the attorney requests a hearing, the attorney shall serve a copy of the request on the complaining party. The hearing shall be held as soon as practicable after the attorney's request therefore, but in no case shall it be held more than 30 days after it has been requested except by stipulation of the parties. The complainant and the attorney shall each be given at least 10 days notice of the hearing. The hearing may be held in chambers. The hearing shall not be open to the public. The court may designate a commissioner, referee, judge pro tempore, or any qualified member of the bar to act as hearing officer.

I. At the hearing, each party shall have the right to present arguments to the hearing officer with respect to the court's determination. Such arguments shall be based on the evidence before the court at the time the determination was made. No new evidence may be presented unless the party offering such evidence can show that it was not reasonably available to the party at the time that the court made its initial determination

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with respect to the complaint. Within 10 days after the hearing, the court or hearing officer shall issue a written determination upholding, reversing, or amending the court's original determination. The hearing decision shall be the final determination of the court with respect to the matter. A copy of the hearing decision shall be provided to both the complainant and the attorney. (Effective 7/1/02)

10.7 Procedures For Informing The Court Of The Interests Of A Dependent Child.

A. At any time during the pendency of a dependency proceeding, any interested person may notify the court that the minor who is the subject of the proceeding may have an interest or right which needs to be protected or pursued in another judicial or administrative forum. If counsel for the child or the CASA , acting as guardian ad litem for the child, becomes aware that the child may have a right or interest which needs to be protected or pursued in another judicial or administrative forum, the CASA or counsel for the child must notify the court of such right or interest as soon as it is reasonably possible for counsel or CASA to do so.

B. Notice to the court may be given by the filing of Judicial Council form JV-180 or by the filing of a declaration. In either case, the person giving notice shall set forth the nature of the interest or right which needs to be protected or pursued, the name and address, if known, of the administrative agency or judicial forum in which the right or interest may be affected and the nature of the proceedings being contemplated or conducted there.

C. If the person filing the notice is the counsel for the child, the notice shall state what action on the child's behalf the attorney believes is necessary, whether the attorney is willing or able to pursue the matter on the child's behalf, whether the association or appointment of counsel specializing in practice before that agency or court may be necessary or appropriate, whether the appointment of a guardian ad litem may be necessary to initiate or pursue the proposed action, whether joinder of a government agency or private service provider to the juvenile court proceedings pursuant to Welfare and Institutions Code section 362 may be appropriate or necessary to protect or pursue the child's interests and whether further investigation may be necessary.

D. If the person filing the notice is not the attorney for the child, a copy of the notice shall be served on the attorney for the child, or, if the child is unrepresented, upon the guardian ad litem for the child.

E. The court may set a hearing on the notice if the court deems it necessary in order to determine the nature of the child's right or interest or whether said interest should be protected or pursued.

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F. If the court determines that further action on behalf of the child is required, the court shall do one or more of the following:

- (1) Authorize the child's attorney to pursue the matter on the child's behalf;
- (2) Appoint an attorney to pursue the matter on the child's behalf;
- (3) Notice a joinder hearing pursuant to section 362 compelling the responsible agency or private service provider to report to the court with respect to whether it has carried out its statutory duties with respect to the child;
- (4) Appoint a guardian ad litem for the child for the purpose of initiating or pursuing appropriate action in the other forum(s);
- (5) Take any other action the court may deem necessary or appropriate to protect the welfare, interests, and rights of the child.

(Effective 7/1/02)

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RULE 11: SMALL CLAIMS PROCEEDINGS

Hearings in small claims matters will be conducted in as informal a manner as possible consistent with the dignity and decorum of the court. Rules relating to the hearing of small claims cases are provided in Code of Civil Procedure section 116.110 et seq. and in the rules promulgated by the Judicial Council of the State of California. The court reserves its right to hear evidence informally pursuant to Code of Civil Procedure section 116.520. (Effective 7/1/02)

RULE 12: APPELLATE DIVISION

12.1 Supervising Judge

The Supervising Judge of the Appellate Division is designated annually by the Chairperson of the Judicial Council. (Effective 7/1/93)

12.2 Sessions

The Appellate Division will convene at least once each month at a time and place designated by the Supervising Judge of the Appellate Division. (Effective 7/1/93)

12.3 Briefs

All briefs filed with the Appellate Division must be bound on the left side, with a plastic cover, and be accompanied by three additional copies. (Effective 7/1/02)

12.4 Other Rules of Appeal

Except as modified by this section, the California Rules of Court on Appeals to the Superior Court (commencing with Rule 101) apply to the Appellate Division. Any applications involving matters pending before the Appellate Division shall be presented to the civil division supervising judge. All applications shall be made between 1:00 and 2:00 p.m. by appointment only made by calling the clerk of the court with at least 24 hours notice to opposing parties or counsel, unless the nature of the motion precludes such notice, and the court may for good cause waive notice. For all matters set on shortened time, the last paper filed must be filed no later than 9:00 a.m. two days before the matter is scheduled to be heard by the court. (Effective 7/1/02)

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RULE 13: GRAND JURY

13.1 Impanelment

A Civil Grand Jury shall be impaneled annually pursuant to the applicable provisions of the California Penal Code sections 904 through 913. Upon notification that the District Attorney or Attorney General wishes to seek an indictment or as otherwise may be necessary the Court will impanel a criminal Grand Jury pursuant to section 904.6. (Effective 7/1/02)

13.2 Nomination of Jurors

In March of each year, the Court will actively seek and accept applications from qualified citizens interested in serving on the Grand Jury for the ensuing fiscal year (July 1 - June 30). The Court will publicize as broadly as reasonably possible the application process. Applicants for membership on the Grand Jury must be qualified for selection under the Penal Code and Code of Civil Procedure. The application must be in writing and on a form provided by the Court Executive Officer.

A minimum of 45 candidates, divided as equally as possible among the five supervisorial districts and representing as broad a cross-section of the community as possible, shall be invited to participate in the interview phase of the process. At least one judge shall interview each prospective Grand Juror.

On or before the second Friday of June of each year, the judges shall nominate and transmit to the Jury Commissioner the names of 30 persons to be placed upon a list from which 19 persons shall be selected for the Grand Jury for the ensuing fiscal year. (Effective 7/1/02)

13.3 Selection of Jurors

On or before the second Tuesday of each July, the court shall meet in bank at the hour of 7:30 P.M. for the purpose of selecting the Grand Jury for the ensuing year. The Grand Jurors shall be selected by lot from the nominees. The names of the nominees not selected shall also be drawn and will be alternate Grand Jurors to fill, in the order drawn, vacancies that occur during the year. (Effective 7/1/02)

13.4 Carryover Jurors

The court will ordinarily appoint "carryover" Grand Jurors each year depending upon the availability thereof or as many up to a maximum of ten as are willing to accept nomination for a succeeding year's term. (Effective 7/1/02)